

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
(FORT WORTH DIVISION)**

**ROI DEVELOPERS, INC.,
d/b/a ACCRUVIA,**

Plaintiff,

VS.

ATHENA BITCOIN, INC.

Defendant.

Case No. _____

**[formerly in the 96th District
Court of Tarrant County, Texas
Cause No. 096-331099-21]**

NOTICE OF REMOVAL

Defendant Athena Bitcoin, Inc. (“Defendant”) hereby removes Cause No. 096-331099-21 from the 96th Judicial District Court of Tarrant County, Texas to the United States District Court for the Northern District of Texas pursuant to 28 U.S.C §§ 1332, 1441 and 1446, and as grounds for its removal states the following:

STATEMENT OF THE CASE

1. On December 28, 2021, Plaintiff ROI Developers, Inc. d/b/a Accruvia (“Plaintiff”) filed a Original Petition in 96th District Court of Tarrant County, Texas styled *ROI Developers, Inc. d/b/a Accruvia v. Athena Bitcoin, Inc., d/b/a Athena Bitcoin Global*, Cause No. 096-331099-21 (the “State Court Action”). A copy of the Original Petition is attached here as **Exhibit A**.

2. Defendant was served through its registered agent with citation and the Original Petition on December 30, 2021. The Return of Service is attached hereto as **Exhibit B**.

3. The Original Complaint asserts two causes of action in the alternative: (1) breach of contract; or (2) quantum meruit. Each of Plaintiff's claims is based on its contention that Defendant failed to pay for goods and/or services provided to Plaintiff.

4. On January 26, 2022, Plaintiff filed Plaintiff's First Amended Original Petition (the "First Amended Petition"), which is now the live pleading in the action. A true and correct copy of the First Amended Petition is attached hereto as **Exhibit C**.

5. The relief sought by Plaintiff includes actual damages for breach of contract and/or quantum meruit in an unspecified amount, and attorneys' fees pursuant to Texas Civil Practices and Remedies Code Section 38.001. Plaintiff has alleged that its claim is for monetary damages up to \$250,000.

DIVERSITY JURISDICTION UNDER 28 U.S.C § 1332(a)

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a), because there is complete diversity of citizenship between Plaintiff and Defendant and more than \$75,000, exclusive of interest and costs, is at stake.

7. Plaintiff is domiciled in the State of Texas,¹ and that its principal place of business in Hurst, Texas.

8. Defendant is not a citizen of Texas. Defendant is a limited liability company formed in the State of Delaware with its principal office and headquarters in Chicago, Illinois. Defendant is registered to do business in Texas as a Foreign For-Profit Corporation. Attached hereto as **Exhibit D** is the Declaration of Eddie Weinhaus for Athena Bitcoin, Inc. (the "AB, Inc. Declaration"). Therefore, there is complete diversity between Plaintiff and Defendant.

9. Plaintiff has alleged that it is entitled to an unspecified amount of actual damages in addition to attorneys' fees and costs. However, Plaintiff has made demand on Athena Bitcoin Global, which is a separate entity altogether from Defendant and whom Defendant believes may be the intended named defendant in the present lawsuit, for \$83,678.91, well over the \$75,000

¹ First Amended Petition, Ex. C, ¶ 6.

amount in controversy and jurisdictional threshold under 28 U.S.C. § 1332(a). Attached hereto as **Exhibit E** is the Declaration of Eddie Weinhaus for Athena Bitcoin Global (“ABG Declaration”).

ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED

10. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1, Defendant concurrently files with this Notice of Removal (1) a completed civil cover sheet; (2) a supplemental civil cover sheet; (3) an index of all the documents filed in the state court; (4) a copy of the docket sheet in the state court action; (5) a copy of each documents filed in the state court action; and (6) a signed certificate of interested persons that complies with Local Rules 3.1(c).

11. This Notice of Removal has been filed within 30 days of the date that Defendant was served with citation and the Original Petition in this matter. As such, removal is timely under § 1446(b).

12. Venue is proper in this Court pursuant to 28 U.S.C. 1441(a) and 1446(a) because the United States District Court for the Northern District of Texas is the federal judicial district embracing the 96th District Court of Tarrant County, Texas, where the State Court Action was originally filed.

CONCLUSION

By this Notice of Removal, Defendant does not waive any objections it may have as to service, jurisdiction or venue, or any other defenses or objections it may have to this action. Defendant intends no admission of fact, law or liability by this Notice, and expressly reserves all defenses, motions, and/or pleas.

Dated: January 28, 2022.

Respectfully submitted,

/s/ Larry L. Fowler

Larry L. Fowler

Texas Bar No. 07321900

Daniel J. Graves

Texas Bar No. 24101822

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